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Internal Revenue Service
Director, Exempt Organizations
Rulings and Agreements

Department of the Treasury
P.O. Box 2508, EODQA Rm. 7-008
Cincinnati, OH 45201

Date: APR 30 2004

U/L: 501.00-00

Employer Identification Number:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

Phone

FAX

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on the attachment to this letter.

You are currently recognized as exempt under section 501(c)(7) of the Code. This classification remains in effect.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

DR-062-2004

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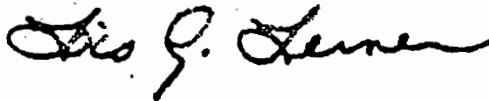
Enter Name of Organization

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely,



Director, Exempt Organizations
Rulings and Agreements

Enclosures: Attachment
Publication 892
Form 6018

Issue:

Does the applicant qualify for tax exemption under section 501(c)(3) of the Internal Revenue Code?

Facts:

_____ was incorporated on _____ in the _____ In _____ you applied for exemption under Code section 501(c)(3). However, under advisement, you subsequently reapplied under Code section 501(c)(7), and were recognized as exempt under the Code section 501(c)(7) in a letter dated _____. You submitted Form 1023 on _____ requesting that your exemption be modified to Code section 501(c)(3). You stated that this request is based upon the fact that your activities have changed over the years, and you are now primarily engaged in educational functions.

You are a membership organization whose members own or have other interests in firearms and other items manufactured by the _____ company. This company is still in business. Most of your organization's members are collectors of firearms and related paraphernalia. You indicate that you have around _____ members, with members in _____ of the _____ states in the U.S. Through bimonthly newsletters and an Internet site, you provide a forum for members to obtain and exchange information on the history, characteristics, and current market value of various _____ guns and related items; information on gun shows and other resources for buying and selling, and trading such items; and a medium for members to advertise items they want to acquire or sell. You also support the positions of the National Rifle Association (NRA) concerning private gun ownership, and distribute NRA literature on firearms usage and safety. (You also contribute funds to the NRA; you stated that you believed the NRA to be a section 501(c)(3) organization; however, our records indicate that it is not exempt under this Code section). Individual members set up displays of collectible _____ at various regional gun shows sponsored by other guns-related organizations. You sponsor an annual meeting/banquet and auction, sometimes accompanied by a group hunting expedition. You also have a Youth Gun Safety and Hunting Program, which you describe as your primary activity at this time. This program is held once a year in at least two different locations _____. The purpose of the program is to teach safe gun handling and firearms sporting interest to the youth of America.

The youth education program conducted in each location lasts two days, and may include field outings, as well as classes in safety and marksmanship. The youth must also have completed a home study program on firearms safety. Instructors may be members of your organization or members of other groups such as the NRA, Safari Club, employees of the U.S. Forest Service or Bureau of Land Management, etc. In order for a youth to receive a "certificate", and be awarded a _____ the youth must work at least 60 hours on "approved conservation projects" sponsored by other organization such as 4-H and Boy Scouts and write a 500-word essay on their experiences. Occasionally, the

youths may go on special trips such as a
around youths participate in each session/trip.

Typically,

The activity description on page 2 of your application also states that members collectible and accessories for display at yearly NRA manufacturer' shows held at random cities in the U.S., to promote interest in the general public concerning and members are invited to attend the annual dinner and firearms display in random cities in the U.S. to offer opportunity to view other collections, trade amongst themselves and Q&As. You also try to supply speakers who have some ties with the

You have stated that your activities have changed since your initial application in and that the is now your primary activity. In response to our letter dated February 9, 2002, you stated that the percentages of organizational time spent in its activities was as follows:

- Organize and maintain membership for [501(c)(3)] purposes (includes time spent coordinating with other charitable organizations
- conduct annual meetings
- Conduct annual membership banquet
- Research and share information related to and its products

Your application states that you are a membership organization. Dues are \$ to join, \$ to renew and \$ for a lifetime membership. Members will receive the following benefits in exchange for their payment of dues as follows: a newsletter is published times a year that includes information shared by members about items and stories of member events, hunts and a website is provided where members can visit and chat. Members can buy hats, patches and buckles with the club logo. These items are charged at cost plus % to cover packaging and shipping.

We printed pages from your website and asked you to review this information. You indicated that the pages had been revised and faxed over the current pages from your Website.

You solicit new members through the Website, which states your purposes as follows:

Additional membership benefits listed on the Website include: Opportunities to purchase items not available to the general public, participation in the participation in and -sponsored field outings, free research of your favorite items, and free advertising in the newsletter.

The membership information on your Website states that you will

When we asked for a temporary password to access members-only sections of your Website, you advised that the IRS employee requesting this information would have to join _____ as a paid member because these areas are "for the privilege of paid members, only."

Your Website contains links to sites for the _____ the _____ and the National Rifle Association. A section on "history" gives the history of the _____

You also communicate with its members through newsletters (published 6 times a year). Your application contained three newsletters; the content of these included the following:

- _____ – President's message discussing various items including youth programs; remainder of issue is devoted to articles on history of _____ firearms, _____ award winners, information on collectible products; Q&A column for _____ collectors.
- _____ – President's message discussing firearms safety and representation of the Club in displays at recent NRA events; pictures of these displays; Q&A on collectibles.
- _____ – President's message about upcoming annual meeting and gun show sponsored by another organization; remainder of issue devoted to Q&A concerning _____ collectible items.

In your letter of October 10, 2002, you stated that none of your officers or board members are employees of the _____ and you did not need the approval of the _____ for your activities, programs, information released, or positions taken.

In your letter dated November 8, 2002, you stated that your membership was approximately _____ and that currently _____ members (on your Board of directors) are actively involved in the youth program on a regular basis.

When asked to submit financial information for the years _____ (income and expenses, including a breakdown of expenses relating the _____ you replied that your current secretary/treasurer was unable to locate this information.

When asked to explain the basis for your statement that the youth program accounts for _____ of your overall activities, you stated that this is based on an estimate of the time spent by your Board members/officers on this activity. In a letter dated 12/16/2002, you

indicated that you estimated around \$ was spent on this program annually. Your application indicated that your total expenses for the years averaged around \$ per year.

Law and Published Precedent:

Section 501(c)(3) of the Code provides for the exemption from Federal income tax for organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. See Treasury Regulations 1.501(c)(3)-1(a)(1). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such sections. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) states that an organization is not operated exclusively for one or more exempt purpose if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(a)-1(c) define the words "private shareholder or individual" as persons having a personal and private interest in the activities of an organization.

Section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized and operated exclusively for one or more exempt purposes unless it serves public rather than private interests. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized and operated for the benefit of private interests such as designated individuals, the creators, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 74-116, 1974-1 CB 127, holds that an organization consisting of users of a particular brand of computer designed to inform members of current scientific and technical data relating to those computers is not exempt under IRC 501(c)(3). It promotes products in a single brand line and thus serves a private, rather than public, interest.

Revenue Ruling 71-395, 1971-2 CB 228, holds that a cooperative art gallery formed by a group of artists for the purpose of exhibiting and selling their works does not qualify for exemption under section 501(c)(3) of the Code.

Revenue Ruling 66-179, 1966-1 C.B. 139 discusses situations under which garden clubs may qualify for exemption under several different sections of the Internal Revenue Code. "Situation 1" describes a club that was found to qualify under Code section 501(c)(3). The club operated a free library of horticultural materials, instructed the public on gardening and conservation through radio, television, and lectures, held public flower shows of a noncommercial nature, encouraged civic beautification projects, and made awards for achievement in conservation and horticulture. Membership was open to the general public, and activities were not restricted to members. In "Situation 2," a similar club was held not to qualify under section 501(c)(3) because a substantial (but not primary) part of its activities consisted of social functions for the benefit, pleasure, and recreation of its members. This club was found to qualify under Code section 501(c)(4) since it was operated primarily to bring about civic betterment. In "Situation 4," a club was held to qualify under Code section 501(c)(7). It held public flower shows, had weekly membership meetings devoted primarily to informal social hours during which matters relating to gardening were discussed, and issued a publication about members' social activities and achievements in home gardening.

In Better Business Bureau of Washington, D.C. v. United States, 326 U.S. 279 (1945), the Supreme Court interpreted the requirement in section 501(c)(3) that an organization be "operated exclusively" by indicating that in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. The presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number and importance of truly exempt purposes.

A Hawaii Corporation, Petitioner v. Commissioner, 71 T.C. 1067 (1979) – The Tax Court found that a corporation did not qualify for exemption under IRC 501(c)(3), because the corporation had a substantial commercial purpose that served the private rather than public interests.

Application of Law:

Section 501(c)(3) of the Code set forth two main tests for qualification for exempt status. An organization must be both organized and operated exclusively for purposes described in section 501(c)(3). Your Articles of Incorporation do not meet the organizational test of section 501(c)(3).

To satisfy the operational test, you must be operated exclusively for one or more exempt purposes. To determine whether the operational test is satisfied, section 1.501(c)(3)-1(c)(1) of the Regulations directs the Service to determine if an organization engages primarily in activities that accomplish one or more exempt purposes for section 501(c)(3) of the Code.

Better Business Bureau of Washington, D.C. v. United States, held that a single non-exempt purpose, if substantial, would preclude tax exemption under section 501(c)(3) of the Code.

You are similar to the organization discussed in Rev. Ruling 74-116 in that at your organization's annual meeting/banquet/auction, your organization will display, sell and promote _____ products. Your Website promotes the _____ in general. As the ruling states, you are promoting a particular brand of a company.

Although Revenue Ruling 66-179 discusses garden clubs, the rationale in this ruling also applies to other types of "hobby clubs." The information submitted indicates that a substantial part of your time and funds are devoted to promoting and facilitating the social and recreational activities of your members as _____ collectors.

You can also be compared with the organization discussed in Rev. Ruling 71-395 in that at your annual event, you promote member's exhibits, and promote trade/ sale of _____ collectibles. As the ruling states, you are serving the private interest of your members.

Additionally, the information in your application, newsletter and Website indicates that you are closely connected to the _____ even if not controlled by that company. You promote their products, and the company in general.

In A Hawaii Corporation, Petitioner v. Commissioner, the Tax Court found that an organization did not qualify for exemption under IRC 501(c)(3), because it had a substantial commercial purpose that served the private interest rather than public interests. You have over _____ members. You communicate with members primarily through newsletters and your Website, in addition to your annual meeting. The Web site states your purpose as follows:

Your youth program is a _____ day event conducted once a year by a small number of members in _____ regions; typically, around _____ youth will participate in the program, although the number will vary each year. You stated there is no financial budget for the youth program.

The time and financial resources expended on your annual meeting, banquet, Website, newsletters, and other activities for the general membership demonstrate that your primary purpose and activity is serving the social/recreational interests of your members. While providing members with information concerning various types of

may have educational aspects, these aspects are subordinate to serving the recreational and, in some cases, commercial interests of your membership. Although you do conduct a youth educational program, this is a minor activity; thus, you are not operated exclusively for educational purposes, which is required by section 501(c)(3) of the Code.

Taxpayer's position:

In your letter dated December 17, 2001, you indicated that:

On your response dated February 9, 2002, you indicated your activities and percentages of time spent on each activities when the organization received its exemption as IRC 501(c)(7) as follows:

Organize and maintain membership for educational, charitable, scientific, and literary purposes: (Includes time spent coordinating with other charitable organizations.) 25%.

Conduct Annual Meetings = 20%.

Conduct Annual Membership Banquet = 20%.

Research and share information related to and its products = 35%.

You then stated that with respect to activities for IRC 501(c)(3) purposes, the current distribution of activities is:

Organize and maintain membership for educational, charitable, scientific, and literary purposes: (Includes time spent coordinating with other charitable organizations.) = 10%.

Conduct Annual Meetings = 10%.

Conduct Annual Membership Banquet = 10%.

Research and share information related to _____ and its products = 10%.

_____ - promote education of youth with respect to conservation and preservation of habitat and wildlife, and ethical, responsible, safe, and knowledgeable use of firearms = ____ %.

Your response on October 10, 2003 summarizes _____ as _____

On how the ____ % youth educational program was computed, your response on October 10, 2003 was that it has been estimated that about ____ % of the man-hours expended by the leadership group of the _____ is dedicated to the Youth Educational Programs. Although the % will vary, it is a very conservative estimate. The balance of ____ % is the time required for the other primary activities-writing, publishing and distributing the newsletter, maintaining membership records and correspondence, accounting for dues/donations and expenditures (i.e., administrative activities), planning and conducting the annual meeting and banquet.

You stated that the involvement of your overall membership in various programs is not a valid method for determining your primary activity, and that the substantiality of various activities should be based on the amount of hours expended by the "leadership group" (your Board) alone. You base this contention on the premise that the general membership, for the most part is "passive" with respect to your activities. You compare your members to subscribers to a magazine.

Government's Position:

Section 1.501(c)(3)-1(a)(1) of the Regulations states that to be exempt, an organization must be both organized and operated exclusively for one or more exempt purposes specified in section 501(c)(3) of the Code. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

In the present case, you have been conducting annual youth program for a number of years. The difference between your application under 501(c)(7) and the current application was primarily the percentage of time the organization said to be spent on the youth program.

We do not concur that the activities that involve members other than your
can be disregarded in determining your primary purposes and/or activities. The
information you present to current and prospective members states that you are formed to
promote interest in firearms and to provide a forum of exchange of
information among members on collectible through the Internet,
newsletters, and meetings. Your Web site emphasizes the benefits
available. Moreover, your estimates regarding application of time and funds were not
substantiated by supporting documentation. The available information tends to indicate
that only an insubstantial amount of your funds are used in the
You acknowledge that the great majority of your members are not involved in operating
or supporting this program. While the services you provide to members concerning
may have some educational features, the overall information does
not establish that you serve a public educational and/or charitable purpose within the
meaning of Code section 501(c)(3). Your primary purpose and activity is promoting the
social and recreational interests of your members. Additionally, you have not established
that your funds have been or will be used exclusively for charitable and/or educational
purposes.

Conclusion:

Based on the information submitted, it is the position of the Internal Revenue Service that
you do not qualify for exemption under section 501(c)(3) of the Code inasmuch as you
are neither organized nor operated exclusively for any of the specified purposes within
that section. Your tax-exempt status as a social club described in section 501(c)(7) of the
Code is still in effect.

20044041E

Form 6018
(Rev. Aug. 1983)Department of the Treasury - Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)Case Number
501260031Date of Latest Determination Letter
July 21, 1999

Employer Identification Number

Date of Proposed Adverse Action Letter

APR 30 2004

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

☒ Denial of exemption under Code section 501(c)(3).☐ Revocation of exemption, effective.☐ Modification of exemption from section 501(c)() to section 501 (), effective☐ Classification as a private foundation described in section 509(a)), effective☐ Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for☐ Classification as an organization described in section 509(a)(), effective☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature instructions on Back)

Name of Organization:

Signature and Title

Date

Signature and Title

Date

Form 6018 Instructions

Do not use this consent if the organization is subject to the declaratory provisions of section 7428 and has submitted a protest of adverse action.

This consent should be signed by hand (do not type, stamp or print) with the name of the organization, followed by the signature(s) and titles(s) of the person(s) authorized to sign on behalf of the organization. An attorney or agent may sign provided the action is specifically authorized by a power of attorney. If the power of attorney was not previously filed, please include it with this form.